IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 1887 of 2007
Date of decision : 5.4.2007

V.R. Metal and Alloyes Pvt. Ltd.

...Petitioner.

Versus

Pritam Dass Kansal and others.,

...Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.O.P. Goel, Sr. Advocate with
Ms. Mamta B. Jain, Advocate
for the petitioner.

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VINOD K. SHARMA, J. (ORAL)

This revision petition has been filed against the order passed by the learned trial Court dismissing an application moved by the petitioner under Order 1 Rule 10 C.P.C. for being impleaded as a party to suit for specific performance filed by the plaintiff respondents.

The petitioners applicant claimed right in the property on the plea that payment for purchase was made by the company and in fact the agreement to sell was executed by the plaintiff respondent on behalf of the company. The said application was contested by the plaintiff respondents wherein the averments made in the application were denied.

The learned trial Court dismissed the application by holding that the petitioner was not necessary or proper party to the suit for specific performance as its presence were not necessary for adjudication of the dispute between the parties.

Shri O.P. Goel, Sr. Advocate appearing on behalf of the petitioners vehemently contended that the order passed by the learned trial Court cannot be sustained as the documents had been produced on record to show that the payment was made by the company and not by the plaintiff. It was further claimed that in part performance of the agreement the applicant petitioners were given possession of the property. It was further contended that petitioner applicants have placed on record the affidavits filed by the plaintiffs to the effect that the payment for purchase was made by the company and further that since the plaintiffs respondent have since resigned as Director of the company they were not entitled to maintain the suit for specific performance. It was further contended that the applicant-petitioners being the intending vendees were entitled to impleaded as defendants in the suit to defeat the rights of the plaintiffs.

I have heard the learned counsel for the petitioners and I find no force in the contentions raised. It is settled law that in a suit for specific performance only the persons who are party to the agreement are necessary parties. The contention raised by the learned counsel for the petitioners, therefore, are contrary to the settled law that a person who is stranger to the contract is not a proper party to the suit for specific performance of the contract. It is not in dispute that in pursuance to the agreement to sell dated 3.7.1997 no conveyance deed had been executed and Shri Pritam Dass Bansal and Narender Kumar Goel continues to be registered owners of the property in dispute. The claim of the applicants is that Shri Pritam Dass Bansal and Vijay Kumar plaintiffs had in fact executed the agreement on behalf of the company and the payment was also made on its behalf. Even

this contention of the learned counsel for the petitioner can not accepted. It is not understood as to how the applicant would benefit by opposing the suit for specific performance filed by the plaintiff respondents. Otherwise also the contention raised by the petitioners that they are in fact real owners of the property in question and that the petitioners were acting on their behalf does not entitled them to be impleaded as a party in the suit in view of Section 4(2) of Benami Transactions (Prohibition) Act, 1988. The judgment passed by the learned trial Court is, therefore, in consonance with the settled law that in a suit for specific performance of contract only the vendor and vendee or lesser or lessee as the case may be are necessary and proper parties. The third party can only be impleaded if due to subsequent event the third party gets vested right in the suit property. It is not case of the applicant that subsequent to agreement to sell any new development has arisen which entitled to the applicants to be impleaded as a party.

The learned trial Court, therefore, was right in coming to the conclusion that the presence of the applicant petitioner was not necessary for adjudication of the dispute between the parties and, therefore, could not be said to be necessary party.

No merit.

Dismissed.

5.4.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**